



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Samuel Stern - Overtime Compensation - Commuting
Time To and From Duty Station

File: B-202098

Date: September 18, 1987

DIGEST

It is a well-established rule that normal commuting time between an employee's residence and duty station is not compensable overtime. This rule applies to an employee who commutes in a carpool with his supervisors even if work-related matters are discussed during the commute.

DECISION

Mr. Samuel Stern, a former employee of the Defense Logistics Agency, has appealed Settlement Certificate Z-2827639, dated June 2, 1987, in which our Claims Group denied his claim for overtime compensation for the time he spent commuting between his residence and duty station during the period July 15, 1984, through April 30, 1986. For the reasons stated hereafter, we affirm the denial of Mr. Stern's claim.

Mr. Stern states that during the period in question he commuted for 2 hours each day in a carpool that included the Commander and Deputy Commander of his installation. The Deputy Commander was Mr. Stern's immediate supervisor. Mr. Stern based his claim for overtime compensation on the fact that business was discussed regularly during the carpool commutes. In particular, he asserted that one of his performance ratings was based in part on what took place in the carpool. Our Claims Group denied Mr. Stern's claim, citing the holding in 55 Comp. Gen. 1009 (1976) that normal commuting time does not qualify as hours of employment for purposes of overtime pay.

In his appeal of the Claims Group settlement Mr. Stern contends that 55 Comp. Gen. 1009 is distinguishable for his case because that decision pertained to an employee who commuted in a Government car while he commuted to and from

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work in a private vehicle. His appeal also emphasizes the extent to which official business was discussed in the carpool. He states in this regard:

"* * * The conversations that took place were not merely routine conversations. The discussion was directive in nature and the Commander and Deputy Commander insisted that I carry a note pad with me, since they held me responsible for carrying out that direction. They [the conversations] did constitute the type of work I was expected to perform."

Mr. Stern argues that he was in a duty status during his daily commute.

As to Mr. Stern's first contention, the rule against payment of overtime compensation for normal commuting time covers employees who travel in their own private vehicles. We applied the rule very recently to deny the claim of an employee who sought overtime for commuting in his private car. Carl R. Leonard, B-226795, August 20, 1987.

With respect to Mr. Stern's second contention, we are not persuaded that the fact that official business is discussed in a carpool provides a basis for an exception to the rule against overtime pay for commuting. There is nothing unusual about carpools made up of coworkers, including persons having supervisor-subordinate relationships; and it is reasonable to assume that work-related discussions occur frequently in these carpools. However, we are not prepared to hold that such discussions, even if quite regular and extensive, have the effect of placing the participants in a duty status and qualifying them for overtime compensation.

Therefore, we conclude that Mr. Stern's claim for overtime compensation was properly denied.

for *Harvey D. Van Cleave*
Comptroller General
of the United States